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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,594	10/30/2003	Hal Richardson	1874.001US1	2626

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EXAMINER

CHIN SHUE, ALVIN C

ART UNIT PAPER NUMBER

3634

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/699,594

Applicant(s)

RICHARDSON, HAL

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchinson in view of Jordan. Hutchinson shows the claimed harness with the exception of the shoulder straps. Jordon shows shoulder straps. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the harness of Hutchinson to comprise shoulder straps, as taught by Jordon, for enclosing the shoulder of a user.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchinson and Jordon as applied to claim 5 above, and further in view of Colorado. Colorado shows a mounting assembly 48 and harness elements made from fire resistive material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hutchinson to comprise a mounting assembly, as taught by Colorado, for mounting a SCBA tank, and to make his deployable assembly from fire resistive material, as taught by Colorado, to enable its use around fires.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchinson in view of Bell. Hutchinson shows the claimed harness with the exception of the rappelling apparatus. Bell shows a rappelling apparatus. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the harness of Hutchinson to comprise a rappelling assembly, as taught by Bell, to enable rappelling by a user.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchinson and Bell, as applied to claim 16 above, and further in view of Colorado as applied above.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in view of Jordan. Bell shows the claimed harness with the exception of the shoulder straps. Jordan shows shoulder straps. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the harness of Bell to comprise shoulder straps, as taught by Jordan, for enclosing the shoulder of a user.

Claims 3,4,10,11,14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchinson and Jordan, as applied to claim 5 above, and further in view of Bell as applied above.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchinson, Jordon and Bell, as applied to claim 10 above, and further in view of Colorado as applied above.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, drawn to an apparatus, classified in class 182, subclass 3.
- II. Claims 19 and 20, drawn to a method of making a kit, classified in class 182, subclass 151.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the apparatus as claimed can be made from a process of attaching the pouches other than to the waist strap, e.g. to shoulder straps.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with attorney Schuman on 3.3.05 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19 and 20 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue
Examiner
Art Unit 3634

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